

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

IN THE MARION CIRCUIT COURT  
CAUSE NO. 49C01 07 10 PL 0 4 4 7 7 0

STATE OF INDIANA, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
JEFFERY TWEEDY, individually and )  
doing business as JEFFERY TWEEDY )  
& ASSOCIATES, )  
 )  
Defendant. )

**FILED**

46

OCT 19 2007

*Charlith A. White*  
CLERK OF THE MARION CIRCUIT COURT

**COMPLAINT FOR INJUNCTION, COSTS AND  
CIVIL PENALTIES**

The State of Indiana, by Attorney General Steve Carter, Deputy Attorney General January Portteus and Deputy Attorney General Matt Light, in accordance with Rule 3 of the Indiana Rules of Trial Procedure, petitions the court pursuant to the Indiana Professional Fundraiser Consultant and Solicitor Registration Act, Ind. Code §23-7-8-1 et seq., and Indiana Deceptive Consumer Sales Act, Ind. Code § 24-5-0.5-1 et seq., for injunctive relief, restitution, investigative costs, civil penalties and other relief.

**PARTIES**

1. The Plaintiff, State of Indiana, is an enforcing authority of Ind. Code §23-7-8-1 et seq. and Ind. Code § 24-5-0.5-1 et seq. and is authorized to bring this action and to seek injunctive relief, consumer restitution, civil penalties, and other relief.

2. The Defendant, Jeffery Tweedy, is an individual doing business as Jeffery Tweedy & Associates, with a principal place of business at 330 South New Albany Avenue, Sellersburg, Indiana, 47172.

### FACTS

3. At least since August 2005, Defendant has acted as a professional fundraiser solicitor on behalf of charitable organizations by soliciting Indiana residents for charitable contributions.

4. On August 18, 2005, Defendant registered as a professional fundraiser with the Consumer Protection Division, Office of the Attorney General ("Division").

5. Prior to registering in August 2005, Defendant solicited charitable donations on behalf of several different charitable organizations. No contracts, solicitation notices, or financial reports relating to these campaigns, as required by the Professional Fundraiser Consultant and Solicitor Registration Act, Ind. Code 23-7-8-2 et. seq., were filed with the Division.

6. In October 2005, Defendant signed an Assurance of Voluntary Compliance ("Assurance") with the State of Indiana. The Assurance was approved by the Marion Circuit Court on October 21, 2005. A true and correct copy of the Assurance is attached and incorporated by reference as Exhibit "A".

7. Pursuant to Ind. Code § 24-5-0.5-7 and paragraph two (2) of the Assurance, any violation of its terms constitutes prima facie evidence of a deceptive act.

8. The Assurance required Defendant to comply in all aspects with the Professional Fundraiser Consultant and Solicitor Registration Act and to provide, within fourteen days of court approval, copies of all solicitation contracts, completed solicitation notices, and campaign financial reports for campaigns on behalf of the following organizations:

- (a) Wabash Fraternal Order of Police (hereinafter "FOP") #83;
- (b) Muncie FOP #87;

(c) Muncie Crime Stoppers Program, Inc.;

(d) Muncie Police Athletic League;

(e) Scottsburg FOP #156; and

(f) Clark County FOP #181.

9. The Defendant failed to file any of the documents listed in the Assurance and in paragraph eight (8) above within fourteen (14) days of the court's approval of the Assurance.

10. The Defendant has still failed to file accurate and complete campaign financial reports for the following campaigns listed in the Assurance and in paragraph eight (8) above:

(a) Wabash FOP #83; and

(b) Scottsburg FOP #156.

11. The Defendant has failed to file accurate and complete campaign financial reports for the following campaigns not later than ninety (90) days after the solicitation campaign ended, as required by Ind. Code § 23-7-8-2(f):

(a) New Castle FOP # 70, which started on or around October 3, 2005 and ended on or around October 28, 2005;

(b) AMVETS Department of Indiana, which started on or around April 17, 2006 and ended on or around May 12, 2006; and

(c) Indiana Drug Enforcement Association, Inc., which started on or around April 3, 2006 and ended on or around July 28, 2006.

12. The Defendant failed to file an accurate and complete registration renewal with the Division before July 2, 2006, as required by Ind. Code § 23-7-8-4(c). On August 30, 2006, the Division received a renewal application which failed to include a list of campaigns, employee information, and ownership information.

13. The Consumer Protection Division has requested or demanded that the Defendant file the items listed in paragraphs eight (8), ten (10), eleven (11), and twelve (12) on at least six (6) separate occasions: October 15, 2005; March 16, 2006; April 24, 2006; October 20, 2006; November 9, 2006; and July 23, 2007.

14. On August 13, 2007, Defendant telephoned the Consumer Protection Division and stated that he is no longer acting as a professional solicitor on behalf of charitable organizations and therefore would not need to renew his registration. The Defendant also stated that he would file the outstanding documents and submit correspondence explaining his non-compliance.

15. The Defendant has still failed to file accurate and complete versions of any of the items listed in paragraphs ten (10), eleven (11), or twelve (12).

**COUNT I - VIOLATIONS OF THE PROFESSIONAL  
FUNDRAISER CONSULTANT AND SOLICITOR REGISTRATION ACT**

16. The Plaintiff realleges and incorporates by reference the allegations contained in paragraphs one (1) through fifteen (15) above.

17. At all relevant times, Defendant acted as a “professional solicitor” as defined Ind. Code §23-7-8-1.

18. By failing to file an accurate and complete registration renewal application with the Division, as referred to in paragraphs twelve (12) above, Defendant violated the Professional Fundraiser Consultant and Solicitor Registration Act, Ind. Code §23-7-8-4(c).

19. By failing to file a copy of Defendant’s written contracts with charitable organizations before engaging in solicitations, as referred to in paragraphs five (5), eight (8), and nine (9) above, Defendant violated the Professional Fundraiser Consultant and Solicitor Registration Act, Ind. Code §23-7-8-2(d).

20. By failing to file a solicitation notice with the Division concerning Defendant's solicitation campaigns on behalf of charitable organizations before engaging in solicitations, as referred to in paragraphs five (5), eight (8), and nine (9) above, Defendant violated the Professional Fundraiser Consultant and Solicitor Registration Act, Ind. Code §23-7-8-2(e).

21. By failing to file financial reports with the Division concerning Defendant's solicitation campaigns on behalf of charitable organizations not later than (90) days after the end of the campaigns, as referred to in paragraphs five (5), eight (8), nine (9), ten (10), and eleven (11) above, Defendant violated the Professional Fundraiser Consultant and Solicitor Registration Act, Ind. Code §23-7-8-2(f).

22. Pursuant to Ind. Code § 23-7-8-2(f), the Division may deny or revoke the registration of a professional solicitor who fails to file accurate, complete, and timely campaign financial reports.

#### **COUNT II - VIOLATIONS OF THE DECEPTIVE CONSUMER SALES ACT**

23. The Plaintiff realleges and incorporates by reference the allegations contained in paragraphs one (1) through twenty-two (22) above.

24. Any violations of the terms of the Assurance entered into by the State of Indiana and Defendant constitute prima facie evidence of a deceptive act.

25. By failing to file accurate, complete, and timely solicitation contracts, solicitation notices, financial reports, and registration renewal applications, as referred to in paragraphs five (5), eight (8), nine (9), ten (10), eleven (11), twelve (12) and fifteen (15) above, the Defendant violated the Deceptive Consumer Sales Act, Ind. Code § 24-5-0.5-1 et seq.

**COUNT III – KNOWING AND INTENTIONAL VIOLATIONS  
OF THE DECEPTIVE CONSUMER SALES ACT**

26. The Plaintiff realleges and incorporates by reference the allegations contained in paragraphs one (1) through twenty-five (25) above.

27. The violations and deceptive acts set forth above were committed by the Defendant with knowledge and intent to deceive.

**RELIEF**

WHEREFORE, the Plaintiff, State of Indiana, requests the Court enter judgment against Defendant, Jeffery Tweedy, individually and doing business as Jeffery Tweedy and Associates, for a permanent injunction pursuant to Ind. Code § 23-7-8-8(c) and Ind. Code § 24-5-0.5-4(c), enjoining Defendant from the following:

1. In the course of conducting charitable fundraising activities in Indiana:
  - a. Failing to register with the Indiana Attorney General's Consumer Protection Division before acting as a professional fundraiser consultant or professional solicitor in the State of Indiana on behalf of any charitable organization, pursuant to Ind. Code § 23-7-8-2(a);
  - b. Failing to renew his fundraising registration before July 2 of each year pursuant to Ind. Code § 23-7-8-4(c);
  - c. Failing to notify the Division in writing within 180 days of any change in the information contained in Defendant's registration;
  - d. Failing to enter into a written contract, including each of the provisions required under Ind. Code § 23-7-8-2(d), and file it with the Division before

- acting as a professional solicitor or otherwise soliciting in the state of Indiana on behalf of any charitable organization;
- e. Failing to file a solicitation notice with the Division, including each of the items required by Ind. Code § 23-7-8-2(e), prior beginning a solicitation campaign in which Indiana residents are solicited;
  - f. Failing to file a financial report with the Division, pursuant to Ind. Code § 23-7-8-2(f), not later than ninety (90) days after a solicitation campaign has ended and not later than ninety (90) days after the anniversary of the commencement of a solicitation campaign lasting more than one (1) year, containing the following information concerning the campaign:
    - i. the total gross amount of money raised by Defendant and the charitable organization from donors;
    - ii. the total amount of money paid to or retained by Defendant;
    - iii. the total amount of money, excluding the amount identified in paragraph 1(f)(ii) above, paid by the charitable organization as expenses as part of the solicitation campaign; and,
    - iv. the total amount of money received by the charitable organization after deducting the amounts identified in paragraphs 1(f)(ii) and 1(f)(iii) above.
  - g. Failing to keep accurate fiscal records regarding his fundraising activities in Indiana and failing to retain such records for at least three (3) years after the end of the period of registration to which they relate;
  - h. Using the fact of registration as an endorsement by the State;

- i. Misrepresenting that Defendant is an officer or employee of a public safety agency;
- j. Using the name “police”, “law enforcement”, “trooper”, “rescue squad”, “firemen”, or “firefighter” in his solicitations unless a bona fide police, law enforcement, rescue squad, or fire department authorizes its use in writing;
- k. Misrepresenting to anyone that the contribution will be used for a charitable purpose if he has reason to believe the contribution will not be used for a charitable purpose;
- l. Misrepresenting to anyone that another person endorses the solicitation unless that person has consented in writing to the use of the person's name for the purpose of endorsing the solicitation;
- m. Misrepresenting to anyone that the contribution is solicited on behalf of anyone other than the charitable organization that authorized the solicitation;
- n. Failing to make the disclosures required by Ind. Code § 23-7-8-6 at the time of the solicitation and before the donor agrees to make a contribution; or
- o. Collecting or attempting to collect a contribution in person or by means of a courier unless:
  - i. the solicitation is made in person and the collection or attempt to collect is made at the time of the solicitation; or
  - ii. the contributor has agreed to purchase goods or items in connection with the solicitation, and the collection or attempt to collect is made at the time of delivery of the goods or items.



2. In the course of soliciting and/or transacting with Indiana residents, violating any provision of the Deceptive Consumer Sales Act, Ind. Code § 24-5-0.5-1 et seq.

AND WHEREFORE, the Plaintiff, State of Indiana, further requests the Court enter judgment against Defendant for the following relief:

a. costs pursuant to Ind. Code §23-7-8-8(c) and Ind. Code § 24-5-0.5-4(c), awarding the Office of the Attorney General its reasonable expenses incurred in the investigation and prosecution of this action;

b. on Count I of Plaintiff's Complaint, civil penalties pursuant to Ind. Code §23-7-8-8(c) for Defendant's violations of the Professional Fundraiser Consultant and Solicitor Registration Act, in the amount of Five Hundred and 00/100 Dollars (\$500.00) per violation, payable to the State of Indiana;

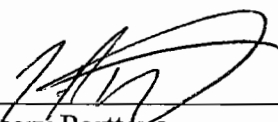
c. on Count III of Plaintiff's Complaint, civil penalties, pursuant to Ind. Code § 24-5-0.5-4(g), for the Defendants' knowing violations of the Deceptive Consumer Sales Act, in the amount of Five Thousand Dollars (\$5,000.00) per violation, payable to the State of Indiana;

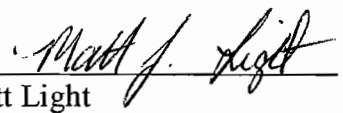
d. on Count III of the Plaintiff's complaint, civil penalties, pursuant to Ind. Code § 24-5-0.5-8, for the Defendants' intentional violations of the Deceptive Consumer Sales Act, in the amount of Five Hundred Dollars (\$500.00) per violation, payable to the State of Indiana; and

e. all other just and proper relief.

Respectfully submitted,

STEVE CARTER  
Attorney General of Indiana  
Atty. No. 4150-64

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STATE OF INDIANA       )  
                                  ) SS:  
COUNTY OF MARION     )

IN THE MARION CIRCUIT COURT  
  
AVC NO. 05-044

IN RE: JEFFERY TWEEDY, individually     )  
      and doing business as JEFFERY     )  
      TWEEDY & ASSOCIATES,             )  
  )  
      Respondent.                         )

**FILED**  
32 OCT 21 2005  
*Donna Ann Holder*  
CLERK OF THE  
MARION CIRCUIT COURT

ASSURANCE OF VOLUNTARY COMPLIANCE

The State of Indiana, by Attorney General Steve Carter and Deputy Attorney General David A. Paetzmann, and the Respondent, Jeffery Tweedy, individually and doing business as Jeffery Tweedy & Associates, enter into an Assurance of Voluntary Compliance ("Assurance") pursuant to Indiana Code §23-7-8-1 et seq.

Any violation of the terms of this Assurance constitutes prima facie evidence of a deceptive act. This Assurance is entered into without any adjudication of any issue of fact or law, and upon consent of the parties.

The parties agree:

1. Respondent is engaged in business as a professional fundraiser solicitor, with a principal place of business at 330 South New Albany Street, Sellersburg, Indiana, 47172, and transacts business with Indiana consumers.
2. The terms of this Assurance apply to and are binding upon Respondent, his employees, agents, representatives, successors, and assigns.
3. Respondent, in acting as a professional fundraiser consultant or soliciting charitable contributions, agrees to comply in all aspects with the Professional Fundraiser Consultant and



Solicitor Registration Act, Ind. Code §23-7-8 et seq., including; but not limited to the following provisions:

a. Before acting as a professional fundraiser consultant or professional solicitor in the State of Indiana on behalf of any charitable organization, Respondent will be registered with the Indiana Attorney General's Consumer Protection Division ("Division").

b. Respondent will notify the Division in writing within 180 days of any change in the information contained in Respondent's registration.

c. Before acting as a professional fundraiser consultant for any particular charitable organization, Respondent will enter into a written contract with the organization and will file this contract with the Division. All such contracts will:

- i. identify the services that Respondent is to provide; and,
- ii. state whether Respondent will at any time have custody of contributions.

d. Before acting as a professional solicitor or otherwise soliciting, Respondent will enter into a written contract with the charitable organization for which he is soliciting, and will file the contract with the Division. All such contracts will:

- i. specify the percentage of gross contributions which the charitable organization will receive or the terms upon which a determination can be made as to the amount of the gross revenue from the solicitation campaign that the charitable organization will receive. The amount that the charitable organization will receive will be expressed as a fixed percentage of the gross revenue or as a reasonable estimate of the percentage of the gross revenue. If a reasonable estimate is used, the contract must clearly disclose the assumptions or a formula upon which the estimate is based. If a fixed percentage is used, the percentage must exclude any amount that the charitable organization is to pay as

expenses of the solicitation campaign, including the cost of any merchandise or services sold; and

ii. disclose the average percentage of gross contributions collected on behalf of charitable organizations that the charitable organizations received from Respondent for the three (3) years preceding the year in which the contract is formed.

e. Before beginning a solicitation campaign, Respondent will file a solicitation notice with the Division. The notice will include the following:

- i. a copy of Respondent's contract with the charitable organization;
- ii. the projected dates when soliciting will begin and end;
- iii. the location(s) and telephone number(s) from where solicitations will be conducted;
- iv. the name and residence address of each person responsible for directing and supervising the conduct of the campaign; and
- v. if the solicitation is one in which a bona fide police, law enforcement, rescue squad, or fire department has authorized the use of the name "police", "law enforcement", "trooper", "rescue squad", "firemen", or "firefighter", the solicitation notice will include a copy of the written authorization given by such bona fide organization for which Respondent is soliciting.

f. Not later than ninety (90) days after solicitation campaign has ended and not later than ninety (90) days after the anniversary of the commencement of a solicitation campaign lasting more than one (1) year, a professional solicitor shall submit the following information concerning the campaign to the division:

- i. the total gross amount of money raised by Respondent and the charitable

organization from donors;

ii. the total amount of money paid to or retained by Respondent;

iii. the total amount of money, excluding the amount identified in paragraph 3.f.ii above, paid by the charitable organization as expenses as part of the solicitation campaign; and,

iv. the total amount of money received by the charitable organization after deducting the amounts identified in paragraphs 3.f.ii and 3.f.iii above.

g. Respondent will keep accurate fiscal records regarding his activities in Indiana, and will retain such records for at least three (3) years after the end of the period of registration to which they relate.

h. Respondent will not:

i. use the fact of registration as an endorsement by the State;

ii. misrepresent that Respondent is an officer or employee of a public safety agency;

iii. use the name "police", "law enforcement", "trooper", "rescue squad", "firemen", or "firefighter" unless a bona fide police, law enforcement, rescue squad, or fire department authorizes its use in writing;

iv. misrepresent to anyone that the contribution will be used for a charitable purpose if he has reason to believe the contribution will not be used for a charitable purpose;

v. misrepresent to anyone that another person endorses the solicitation unless that person has consented in writing to the use of the person's name for the purpose of endorsing the solicitation;

vi. misrepresent to anyone that the contribution is solicited on behalf of anyone other than the charitable organization that authorized the solicitation; or

vii. collect or attempt to collect a contribution in person or by means of a courier unless:

a. the solicitation is made in person and the collection or attempt to collect is made at the time of the solicitation; or

b. the contributor has agreed to purchase goods or items in connection with the solicitation, and the collection or attempt to collect is made at the time of delivery of the goods or items.

4. Respondent, in soliciting and/or contracting with consumers, agrees to comply in all aspects with the Deceptive Consumer Sales Act, Ind. Code §24-5-0.5-1 et seq.

5. Within fourteen (14) days following court approval of this Assurance, Respondent agrees, pursuant to Ind. Code §23-7-8-2(d), to provide a copy of all solicitation contracts Respondent entered into with charitable organizations since January 1, 2003, including but not limited to the following campaigns:

- a. Respondent's campaigns with the Fraternal Order of Police Lodge 83, Inc.;
- b. Respondent's campaigns with the Muncie Fraternal Order of Police Lodge #87, Inc.;
- c. Respondent's campaigns with the Muncie Crime Stoppers Program, Inc.;
- d. Respondent's campaigns with the Muncie Police Athletic League;
- e. Respondent's campaigns with the Scottsburg Fraternal Order of Police; and
- f. Respondent's campaigns with the Clark County Fraternal Order of Police #181.

6. Within fourteen (14) days following court approval of this Assurance, Respondent agrees, pursuant to Ind. Code §23-7-8-2(e), to provide completed solicitation notices for all solicitation campaigns that began after January 1, 2003, including but not limited to the following campaigns:

- a. Respondent's campaigns with the Fraternal Order of Police Lodge 83, Inc.;
- b. Respondent's campaigns with the Muncie Fraternal Order of Police Lodge #87, Inc.;
- c. Respondent's campaigns with the Muncie Crime Stoppers Program, Inc.;
- d. Respondent's campaigns with the Muncie Police Athletic League;
- e. Respondent's campaigns with the Scottsburg Fraternal Order of Police; and
- f. Respondent's campaigns with the Clark County Fraternal Order of Police #181.

7. Within fourteen (14) days following court approval of this Assurance, Respondent agrees, pursuant to Ind. Code §23-7-8-2(f), to provide campaign financial reports for the following campaigns:

- a. Respondent's campaigns with the Fraternal Order of Police Lodge 83, Inc.;
- b. Respondent's campaigns with the Muncie Fraternal Order of Police Lodge #87, Inc.;
- c. Respondent's campaigns with the Muncie Crime Stoppers Program, Inc.;
- d. Respondent's campaigns with the Muncie Police Athletic League;
- e. Respondent's campaigns with the Scottsburg Fraternal Order of Police;
- f. Respondent's campaigns with the Clark County Fraternal Order of Police #181;

and



g. Any of Respondent's other solicitation campaigns that began after January 1, 2003.

8. Respondent agrees that all information Respondent provides in response to paragraphs 5, 6, and 7 will comply in all aspects with the Professional Fundraiser Consultant and Solicitor Registration Act, Ind. Code §23-7-8 et seq.

9. Upon execution of this Assurance, Respondent shall pay costs in the amount of One Thousand and 00/100 Dollars (\$1,000.00) to the Office of the Attorney General.

10. Respondent shall not represent that the Office of the Attorney General approves or endorses Respondent's past or future business practices, or that execution of this Assurance constitutes such approval or endorsement.

11. Respondent shall fully cooperate with the Office of the Attorney General in the resolution of any future written complaints the Consumer Protection Division receives.

12. The Office of the Attorney General shall file this Assurance with the Circuit Court of Marion County. The Court's approval of this Assurance shall not act as a bar to any private right of action.

DATED this 15<sup>th</sup> day of OCT., 2005.

STATE OF INDIANA

RESPONDENT

STEVE CARTER  
Attorney General of Indiana

JEFFERY TWEEDY, individually and doing  
business as JEFFERY TWEEDY & ASSOCIATES,

by: 

David A. Paetzmann  
Deputy Attorney General  
Attorney No. 6392-23

by: 

Jeffery Tweedy

Office of the Attorney General  
Indiana Government Center South  
5<sup>th</sup> floor  
302 W. Washington Street  
Indianapolis, IN 46204  
(317) 232-6201

APPROVED, this \_\_\_\_\_ day of ~~OCT 21 2005~~, 2005.

  
Judge, Marion County Circuit Court

SS\256912